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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/927,742

Applicant(s)

KAMINKOW, JOSEPH E.

Examiner

Travis R. Banta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-57 and 104 is/are pending in the application.
- 4a) Of the above claim(s) 58-103 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-57, 104 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Response to Amendment***

This action is taken in response to a Request for Continued Examination filed July 3, 2007. Claims 1-57 and 104 are pending. Claims 58-103 have been withdrawn.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-22, 24-41, 44-46, 48-53, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US Patent Number 6,379,247).**

**Claims 1, 14:** Walker teaches a method for awarding player-tracking points to patrons of a gaming establishment. (Abstract & Title) The dealer determines when the patron has begun an activity for which player tracking points/comps are accrued and accrues the points to the player without receiving identification information or account information from the player (see column 8 lines 19-21). The player is awarded the accrued points. (Fig 10b, 1038) Points are awarded for an entertainment purchase (i.e., for gaming activity) and are thus combinable with loyalty points earned from playing a game of chance at the gaming establishment. Walker teaches automatically accruing tracking points for a patron (see column 4 lines 31-38).

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Walker does not teach implementing the system in a mechanism or automatically determining that the patron has begun an activity for which player-tracking points accrue. Walker discloses the dealer to be pressing buttons to award players with frequent flyer miles in response to player gaming. Pressing buttons is a manual activity (see column 4 lines 23-36). However, MPEP 2142 III provides that automation of a manual task is not sufficient to distinguish the prior art (MPEP 2142 III). It would therefore be obvious to automate the button pressing with means to automatically determine that a patron has begun an activity and the automatic accrual of points to standardize the awards for all players independent of the dealer.

Walker discloses awarding players without receiving identification information or account information (see column 8 lines 19-21).

**Claims 2, 16:** Walker teaches that the gaming establishment is a casino. (Title)

**Claims 3, 17:** Walker teaches that the gaming entity has a plurality of venues - i.e., gaming tables (112).

**Claims 4, 18:** Walker teaches using a gaming machine in a gaming establishment (column 3 lines 50-53). Tables incorporating system described by Walker by the broadest reasonable interpretation is a machine.

**Claims 5, 19:** Walker teaches that the player may receive player tracking points for playing "blackjack, craps, roulette, poker, and the like." (Col 3, 50-52) These are games of chance.

**Claims 6, 26, 27:** Walker's Fig 10a shows that the player tracking points begin accruing without receiving player tracking information or a player tracking card from the player.

**Claim 7:** Walker teaches that the player has a player tracking account with the gaming establishment. (Fig 9)

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**Claims 8, 28, 29:** Walker teaches that the patron has a player tracking account with the casino.

(Fig 9) The player tracking points may be awarded to the patron anonymously, without crediting the player tracking account. (Col 8, 18-20)

**Claims 9, 30:** In one of Walker's embodiments, the player is awarded frequent flyer miles without reference to the player account. (Col 10, 23-33) The player merely informs the casino which frequent flyer account (as opposed to casino player tracking account) the frequent flyer miles should be assigned to. (Col 10, 31-33) Frequent flyer miles can be considered to be "comps".

**Claim 10:** Walker teaches that the loyalty point instrument is a printed ticket. (Col 5, 28-32)

**Claims 11, 31:** Walker teaches crediting the player tracking points stored on the loyalty program instrument to a player tracking account of the patron. (Col 12, 5-20 & 55-67) **Claims 12, 33:** Walker teaches that the loyalty point instrument is a printed ticket. (Col 5, 28-32)

**Claims 13, 21, 22:** Walker teaches that the activity for which player-tracking points accrue (playing a gambling game) occurs in a venue within, and therefore, affiliated with, the gaming establishment - i.e. gaming table (112).

**Claim 15:** Walker teaches a method for awarding player-tracking points to patrons of a gaming establishment. (Abstract & Title) The dealer determines when the patron has begun an activity for which player tracking points/comps are accrued and accrues the points to the player without the player initiating a player tracking session. (Fig 10a) The player is awarded the accrued points (Fig 10b, 1038) that are issued to the player. (Fig 10b, 1036, 1038) Fig 10a shows that the player

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tracking points accrue without receiving player tracking information (identification information, account information, or a combination thereof) from the player.

Walker does not teach implementing the system by automatically determining that the patron has begun an activity for which player-tracking points accrue. This is a manual task left to the dealer. Walker discloses the dealer to be pressing buttons to award players with frequent flyer miles in response to player gaming. Pressing buttons is a manual activity (see column 4 lines 23-36). However, MPEP 2142 III provides that automation of a manual task is not sufficient to distinguish the prior art (MPEP 2142 III). It would therefore be obvious to automate the button pressing with means to automatically determine that a patron has begun an activity and the automatic accrual of points to standardize the awards for all players independent of the dealer.

Walker further discloses issuing to the patron a loyalty program instrument designed to store awarded loyalty points. Walker teaches that the loyalty point instrument is a printed ticket. (Col 5, 28-32)

Walker discloses awarding players without receiving identification information or account information (see column 8 lines 19-21).

**Claim 20:** Walker teaches that the activity for which a patron may receive player-tracking points is an entertainment purchase - i.e., gambling. Gambling is entertainment.

**Claim 24:** Walker teaches that the loyalty points stored on the loyalty instrument are redeemable for comps. (Col 12, 55-67)

**Claim 25:** Walker teaches that the rate at which the patron accrues loyalty points varies according to the amount wagered. (Col 4, 39-65)

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**Claims 32, 35:** Walker teaches that the loyalty points are credited to the patron's player tracking account or redeemed for comps using a cashier station. (Col 3, 59-62)

**Claim 34:** Walker teaches that the loyalty point instrument is a printed ticket. (Col 5, 28-32)

**Claim 36:** Walker teaches detecting a first game event initiated by the game player (a bet) and accruing loyalty points in response thereto. (Col 2, 63-65) Walker teaches determining a second gaming event such as the player placing a higher bet (column 4 lines 45-51). The system determines the total number of loyalty points that have accrued to the game player and issues the player a loyalty point instrument designed to store the awarded loyalty points. (Figs 10 a & b) The system issues loyalty points without receiving identification from the game player (column 8 lines 19-21).

Walker teaches applying the system to gaming machines (see column 3 lines 50-53). Walker discloses awarding players without receiving identification information or account information – the player can be anonymous (see column 8 lines 19-21). Walker further discloses issuing to the patron a loyalty program instrument designed to store awarded loyalty points. Walker teaches that the loyalty point instrument is a printed ticket. (Col 5, 28-32)

Walker does not teach the gaming machine detecting that the patron has begun an activity for which player-tracking points accrue. This is a manual task left to the dealer. Walker discloses the dealer to be pressing buttons to award players with frequent flyer miles in response to player gaming. Pressing buttons is a manual activity (see column 4 lines 23-36). However, MPEP 2142 III provides that automation of a manual task is not sufficient to distinguish the prior art (MPEP 2142 III). It would therefore be obvious to automate the button pressing with means

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to automatically determine that a patron has begun an activity and the automatic accrual of points to standardize the awards for all players independent of the dealer.

**Claims 37, 40:** The loyalty program instrument is designed to store a validation number. This is information. (Fig 10b, 11,12)

**Claim 38:** Walker teaches that the loyalty point instrument is a printed ticket. (Col 5, 28-32)

**Claim 39:** Walker teaches that the first event is placing a wager. This is analogous to depositing indicia of credit into a gaming machine.

**Claim 41:** Walker teaches that the loyalty point instrument is a printed ticket. (Col 5, 28-32). This is analogous to detecting a player request for a loyalty program instrument or detecting zero credits.

**Claim 44:** Walker teaches displaying the amount of loyalty points to the game player. (Fig 10a, 1018)

**Claims 45 & 46:** Walker teaches storing loyalty point transaction information on a memory device (416) located at the gaming table. The gaming table is analogous to the gaming machine. The device is on, but not inside the gaming table. (Fig 3)

**Claim 48:** Walker's Fig 10a clearly discloses that game play sequences for one or more games may be presented between the first and second gaming events.

**Claim 49:** Walker teaches that the player may receive player tracking points for playing "blackjack, craps, roulette, poker, and the like." (Col 3, 50-52) These are games of chance. The video versions of these games are notoriously well known.

**Claim 50:** The rate at which the patron accrues loyalty points varies according to the amount



wagered. (Col 4, 39-65)

**Claims 61, 52:** Fig 10a shows that the player tracking points begin accruing without receiving player tracking information or a player-tracking card from the player.

**Claim 53:** Walker teaches issuing a loyalty program instrument (i.e., a receipt). (Fig 10b, 1038) This is performing a loyalty program instrument transaction.

**Claim 55:** Walker teaches that the accrued loyalty points are determined by a logic device (Fig 4, 410) located on the gaming table. This is analogous to being located on the gaming machine.

**Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker as applied to claim 36 above, and further in view of Kelley (US Patent Number 5,816,918).**

**Claim 47:** Walker teaches the invention substantially as claimed. Walker discloses comps may take many forms, but fails to teach the details of redeeming comps in forms other than as frequent flyer miles. Kelley teaches a prize redemption system that displays a prize menu including one or more prizes redeemable for an amount of loyalty points. (Fig 6, 334) The system then receives a prize selection selected from the prize menu. (336) If the patron has enough loyalty points for the selected prize, the system issues a loyalty program instrument used to redeem the selected prize. (337) It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker to include a prize menu from which a player may choose a prize and issue a loyalty program instrument redeemable for that prize (providing the player has enough loyalty points to purchase the prize)

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as suggested by Kelly in order to implement Walker's disclosure that comps may be redeemed for a number of goods and services.

**Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker as applied to claim 22 above, and further in view of Boushy (US Patent Number 5,761,647).**

**Claim 23:** Walker teaches the invention substantially as claimed. Walker and Cumber do not teach communication between venues and the gaming establishment via the Internet. Boushy teaches a national customer recognition system in which various gaming venues communicate with a gaming establishment via a Wide Area Network (102). The Internet is a well-known Wide Area Network. Linking several venues via a Wide Area Network allows players to accumulate points at affiliated casino properties. This encourages patrons to visit affiliated casinos as they travel about the world. This translates to higher profits within a family of casinos. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker to include communication between venues and the gaming establishment via the Internet as suggested by Boushy in order to create a national customer recognition that allows players to accumulate points at affiliated casino properties thus encouraging patrons to visit affiliated casinos as they travel about the world and generating to higher profits within a family of casinos.

**Claims 42, 43, 54, 56, & 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker as applied to claim 36 above, and further in view of Bums et al.**

**(US Patent Number 6,048,269).**

**Claim 42:** Walker teaches the invention substantially as claimed. Walker teaches determining the amount of loyalty points stored on a first loyalty point instrument and validating the first loyalty point instrument. When the first loyalty point instrument has been validated, the loyalty points stored thereon are added to an amount of loyalty points awarded to the game player. (Fig 11) Walker, however, teaches that the redemption/validation process occurs at a cashier station instead of at a gaming machine. Burns teaches reading tickets that are analogous to the loyalty point instrument at the gaming machine. This provides greater convenience to the player by allowing the player to redeem the loyalty point instruments at more locations. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker to allow players to redeem/validate loyalty point instruments at a gaming machine as suggested by Burns in order to provide greater convenience to the player.

**Claim 43:** Walker teaches the invention substantially as claimed. Walker, however, teaches the loyalty point instruments are input by the cashier. Burns teaches a ticket reader (206). Having a ticket reader handle the input instead of a cashier reduces costs to the casino because they do not have to have as many employees. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker to have the loyalty point instrument input using a ticket reader as suggested by Burns in order to reduce the number of employees a casino needed, thus reducing costs.

**Claim 54:** Walker teaches the invention substantially as claimed, but do not specifically teach

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redeeming the comps earned for plays on the gaming machine. Burns teaches redeeming free play tickets (Fig 3) for a particular game. (Col 5, 46-65) Free play on a gaming machine is often given as comps. This allows the casino to give the player a loyalty award that keeps the player gambling. This boosts casino profits. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker allow the loyalty program instrument to be redeemed for play on a gaming machine as suggested by Burns in order to keep players gambling, thus increasing casino profits.

**Claim 56:** Walker teaches the invention substantially as claimed, but do not teach configuring the game machines to communicate loyalty program information to a second gaming machine. Walker teaches issuing a ticket with loyalty program information (Col 5,28-32). Burns teaches that the tickets issued by a gaming machine can be used to communicate with other gaming machines. Allowing players to use tickets issued by one gaming machine on another gaming machine encourages a player to continue gambling. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker by configuring the game machines to communicate loyalty program information to a second gaming machine as suggested by Burns in order to encourage the players to continue gambling, thus increasing casino profits.

**Claim 57:** It is well known for players to play two different gaming machines simultaneously. Obviously, the player would accrue loyalty points on both machines. Walker teaches issuing a single ticket representing the combined loyalty points awarded in a number of games. (Figs 10a & b) Walker also teaches that the player may receive a number of receipts, each representing an amount of loyalty points awarded. (Col 12, 15-20) Walker teaches communicating the number of

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loyalty points awarded to a central location (the cashier's terminal) where they are combined.

(Figs 11 - 12)

Walker teaches the invention substantially as claimed, but does not teach configuring the game machines to communicate loyalty program information to a second gaming machine or printing a combined loyalty program instrument from the second gaming machine. Walker teaches issuing a ticket with loyalty program information. Bums teaches that the tickets issued by a gaming machine can be used to communicate with other gaming machines. Allowing players to use tickets issued by one gaming machine on another gaming machine encourages a player to continue gambling. When the player is finished with the second gaming machine, it prints out a single consolidated ticket. This increases player convenience because the player only has to keep up with one ticket. It would have been obvious to one of ordinary skill in the art at the time of the invention to have configured the game machines to communicate loyalty program information to a second gaming machine in order to encourage the players to continue gambling, thus increasing casino profits. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention suggested by Walker and to print out a single consolidated loyalty program instrument in order to increased player convenience by reducing the number of tickers the player would have to keep up with.

**Claim 104:** Walker teaches accruing player tracking points without initiating a player tracking session.

***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

However, the Examiner would briefly explain why the arguments presented in response are generally unpersuasive.

Firstly, the Applicant argued "Cumbers does not teach or suggest: determining automatically that a patron has begun an activity for which at least one or player tracking points and comps are accrued" (page 1 at line 12). Cumbers is no longer relied upon in this action. The Examiner has argued herein that automation of a manual task is an obvious improvement to the system of Walker.

Secondly the Applicant argued "Walker et al. and cumbers cannot be combined to teach the claimed feature awarding a patron player tracking points without receiving identification information or account information (claim 1)" (page 2 at line 1). Walker does indeed disclose anonymous players using the system in column 8 line 21. Here the Applicant is using different definitions of the word "identifying". The Examiner has read the present application to define "identifying" as awarding points of some nature to an individual who is not identified by name, address, bank account number or similar. However, assigning a number to a player is not identifying a player in this way. While it allows a casino distinguish one player from another, this information will certainly not lead to the player's identity. By the definition of "identifying" used herein by the Applicant, merely redeeming points would be receiving identification information and would render the claims indefinite under 35 U.S.C. 112. No rejection has been made here as the Examiner's has used the definition he has understood from the specification for "identifying".

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Thirdly, the Applicant argued “The Examiner has not provided a proper motivation or suggestion for combining the references” (page 2 at line 11). While arguments of this type are generally unpersuasive, the Applicant is reminded *KSR v. Teleflex* forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness. See the recent Board decision *Ex parte Smith*, --USPQ2d--, slip op. at 20, (Bd. Pat. App. & Interf. June 25, 2007) (citing *KSR*, 82 USPQ2d at 1396).

Fourth, the Applicant has argued “The cited art does not teach or suggest: determining automatically a patron has begun an activity for which at least one of the player tracking points and comps are accrued without receiving identification information or account information (claim 1)” (page 2 at line 22). As stated herein, automation of a manual task is not sufficient to distinguish the prior art (see MPEP 2142 III).

Fifth, the Applicant has argued “The cited art does not teach or suggest: accruing automatically player tracking points for a patron without receiving identification information or account information” (page 2 at line 30). As stated herein, automation of a manual task is not sufficient to distinguish the prior art (see MPEP 2142 III).

For these reasons, the Examiner would generally find the arguments presented unpersuasive. The Examiner has made these arguments in an effort to spare the Applicant undue expense by more clearly explaining the cited art.

### ***Conclusion***

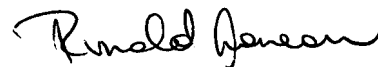
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis R. Banta whose telephone number is (571) 272-1615. The examiner can normally be reached on Monday-Friday 9-4.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TB

RONALD LANEAU  
PATENT EXAMINER

9/12/07